

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 \* \* \*

4 RICHARD POWELL,

5 Plaintiff,

Dist. Case No. 2:20-cv-00730-KJD-DJA  
Appellate Case No. 22-15125

6 v.

7 STATE OF NEVADA, *et al.*,

8 Defendants.

ORDER

9 On January 27, 2022, the Ninth Circuit Court of Appeals referred this matter to this Court  
10 for the limited purpose of determining whether in forma pauperis status should be continued for  
11 the appeal or whether the appeal is frivolous or taken in bad faith. See 28 U.S.C. § 1915(a)(3);  
12 see also *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma  
13 pauperis status is appropriate where district court finds the appeal to be frivolous).

14 Here, the Court noted that Plaintiff had failed to state a colorable equal protection claim  
15 because he had not identified a similarly situated group from which he was treated differently.  
16 The Court then allowed Plaintiff to amend his complaint to do so. Instead of naming a similarly  
17 situated group from which he was treated differently, Plaintiff's amended complaint asserts that  
18 he is a class of one with a novel claim. However, he failed to name a similarly situated group that  
19 he was treated differently than as required by *Village of Willowbrook v. Olech*, 526 U.S. 562,  
20 564-65 (2000). Accordingly, the Court finds that Plaintiff's appeal is frivolous and that in forma  
21 pauperis status is revoked. The Clerk of the Court shall forward a copy of this order to the Ninth  
22 Circuit Court of Appeals.

23 **IT IS SO ORDERED.**

24 Dated this 4th day of February, 2022.

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26   
27 Kent J. Dawson  
28 United States District Judge